

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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BUSINESSES FOR A BETTER NEW YORK, et al.

Plaintiffs,

v.

LINDA ANGELLO, in her official capacity as  
Commissioner of Labor for the State of New York,  
et al.

Defendants.

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**FILED**



CLERK, U.S. DISTRICT COURT, W.D.N.Y.

ORDER  
06-CV-669A

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1). On December 12, 2006, the defendants filed a motion to dismiss the complaint for failure to state a cause of action. On May 31, 2007, Magistrate Judge McCarthy filed a Report and Recommendation recommending that the motion to dismiss be granted.


Plaintiffs filed objections to Magistrate Judge McCarthy's Report and Recommendation. In addition, the Court granted leave to the National Federation of Independent Business Legal Foundation to file an *amicus curiae* brief in support of the plaintiffs' objections. The *amicus curiae* brief was filed on July 31, 2007. Defendants filed a brief in opposition to the plaintiffs' objections on August 30, 2007, and the Court heard oral argument on September 20, 2007.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo*

determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review of the Report and Recommendation, and after reviewing the submissions of the parties and the *amicus curiae* brief by the National Federation of Independent Business Legal Foundation, the Court denies the objections and adopts the Report and Recommendation.

Accordingly, for the reasons stated by Magistrate Judge McCarthy in his Report and Recommendation, the defendants' motion to dismiss the complaint is granted. The Clerk of the Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 28, 2007